

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD
INTERCHANGE FEE AND
MERCHANT DISCOUNT
ANTITRUST LITIGATION**

No. 05-md-01720 (MKB)(JO)

This Document Applies to:

All Actions.

STIPULATION AND [PROPOSED] ORDER

WHEREAS, the parties have been actively engaging in discovery for a substantial period and have worked cooperatively to schedule depositions and serve additional requests in advance of the April 30, 2018 deadline for fact discovery;

WHEREAS, plaintiffs and defendants seek limited additional time to complete certain fact discovery:

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, subject to the approval of the Court, that:

1. The deadline for completing discovery of non-parties shall be extended to June 8, 2018. The parties agreed to identify all non-party depositions or non-party document subpoenas they intend to request or issue (including any depositions of previously requested but currently unscheduled former employees of a party that are not being represented by that party's counsel) by April 6, 2018. The parties agreed that, except as to non-parties that are absent members of the proposed Rule 23(b)(2) and 23(b)(3) classes, the parties would issue any subpoenas for these

additional documents or depositions by April 13, 2018. The parties agreed to notify Class Counsel of any outstanding deposition or document subpoenas to non-parties that are absent members of the proposed Rule 23(b)(2) and 23(b)(3) classes by April 13, 2018, and to serve those subpoenas by April 26, 2018. Cross-notice of any non-party will be served by the parties in accordance with the deposition protocol. In sum, the parties agree that no more non-party depositions will be requested and no more document subpoenas will be issued other than (a) to absent members of the proposed Rule 23(b)(2) and 23(b)(3) classes that have already been identified or (b) cross-notice in accordance with the deposition protocol.

2. Except for the banks that are defendants in the Rule 23(b)(3) Class Complaint (Barclays, Capital One, Fifth Third, First National Bank of Omaha, HSBC, PNC, SunTrust, and Texas Independent Bancshares) and Rule 23(b)(2) Class Complaint (Barclays and Capital One) but not in the Direct Action Plaintiffs' actions (hereinafter the "Class Bank Defendants"), or unless otherwise agreed in any other stipulation with a specific plaintiff, the deadline for completing depositions shall also be extended to June 8, 2018 with respect to (a) all previously identified but unscheduled party witnesses that were identified by March 31, 2018 and (b) employees and former employees of the Rule 23(b)(2) class representatives, Marathon Petroleum Company LP, Gulf Oil Limited Partnership, National Railroad Passenger Corporation, Petco Animal Supplies, Inc., Priceline Group Inc., and Priceline.com, LLC, and Speedway LLC. With respect to the entities listed in clause (b) in the preceding sentence, the parties agree to endeavor to schedule 30(b)(6) depositions sufficiently in advance of June 8, 2018 so that individual depositions can occur by that date. The parties disagree about whether plaintiffs may take any additional depositions of the Class Bank Defendants (or their current or former employees), and

reserve all rights on that issue, but agree that if any such depositions do occur, they will be completed by July 31, 2018.

3. The April 30, 2018 fact discovery deadline shall not apply to the service of contention interrogatories or requests for admission. By agreement of the parties, (a) defendants may serve contention interrogatories and requests for admission between August 31, 2018 and October 30, 2018, and (b) plaintiffs may serve contention interrogatories and requests for admission between February 28, 2019 and April 30, 2019. Each side may also serve additional contention interrogatories and additional requests for admission on each plaintiff or defendant no earlier than May 31, 2019. Absent further agreement, each party shall respond within 45 days of service to contention interrogatories or requests for admission. The parties further agree to endeavor to reach an agreement before June 25, 2018 on reciprocal reasonable limits on the number of requests for admission and contention interrogatories that may be served during each time period described above. If the parties are unable to reach agreement on such limits, then they agree to raise this dispute with the Court no later than June 28, 2018. The parties also agree to further endeavor to reach an agreement regarding the authentication and admissibility of documents.

4. All other case deadlines ordered by the Court shall remain unchanged, and no party may use this stipulation and extension of time as a basis to extend any other case deadline, including the deadline to file expert reports.

Dated: April 17, 2018

HOLWELL SHUSTER & GOLDBERG LLP

By: /s/ Blair E. Kaminsky

Michael S. Shuster
Demian A. Ordway
Blair E. Kaminsky

750 Seventh Avenue, 26th Floor
New York, NY 10019
(646) 837-5151
mshuster@hsgllp.com

ARNOLD & PORTER KAYE SCHOLER LLP

Robert C. Mason
250 West 55th Street
New York, NY 10019-9710
(212) 836-8000
robert.mason@arnoldporter.com

Robert J. Vizas
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111-4024

Mark R. Merley
Matthew A. Eisenstein
601 Massachusetts Avenue, NW
Washington, DC 20001-3743

Attorneys for Visa Defendants

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP

By: /s/ Gary R. Carney

Gary R. Carney

1285 Avenue of the Americas
New York, NY 10019-6064
(212) 373-3051
gcarney@paulweiss.com

Kenneth A. Gallo

Donna Ioffredo
2001 K Street, NW
Washington, DC 20006-1047

Attorneys for Mastercard Defendants

MORRISON & FOERSTER LLP

By: /s/ Mark P. Ladner

Mark P. Ladner
Michael B. Miller

1290 Avenue of the Americas
New York, NY 10104-0050
(212) 468-8000
mladner@mofo.com

Attorneys for Bank of America Defendants

SHEARMAN & STERLING LLP

By: /s/ James Tallon

James Tallon

599 Lexington Avenue
New York, NY 10022
(212) 848-4000
jtallon@shearman.com

Attorneys for Barclays Defendants

O'MELVENY & MYERS LLP

By: /s/ Abby F. Rudzin

Abby F. Rudzin
Andrew J. Frackman

Times Square Tower
7 Times Square
New York, NY 10036
(212) 326-2000
arudzin@omm.com
afrackman@omm.com

Attorneys for Capital One Defendants

SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP

By: /s/ Peter E. Greene

Peter E. Greene
Boris Bershteyn

Four Times Square
New York, NY 10036
(212) 735-3000
peter.greene@skadden.com

Attorneys for JP Morgan Chase Defendants

SIDLEY AUSTIN LLP

By: /s/ David F. Graham

David F. Graham

One South Dearborn Street
Chicago, IL 60603
(312) 853-7000
dgraham@sidley.com

Benjamin R. Nagin
787 Seventh Avenue
New York, NY 10019

Attorneys for Citi Defendants

KEATING MUETHING & KLEKAMP PLL

By: /s/ Richard L. Creighton, Jr.

Richard L. Creighton, Jr.
Drew M. Hicks

One East Fourth Street, Suite 1400
Cincinnati, OH 45202
(513) 579-6400
rcreighton@kmklaw.com
dhicks@kmklaw.com

Attorneys for Fifth Third Defendants

KUTAK ROCK LLP

By: /s/ James M. Sulentic

John P. Passarelli
James M. Sulentic

The Omaha Building
1650 Farnam Street
Omaha, NE 68102
(402) 346-6000
John.Passarelli@KutakRock.com
James.Sulentic@KutakRock.com

*Attorneys for First National Bank of Omaha
Defendants*

WILMER CUTLER PICKERING HALE AND
DORR LLP

By: /s/ David S. Lesser

David S. Lesser

7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 230-8851
david.lessner@wilmerhale.com

Attorneys for HSBC Defendants

REED SMITH LLP

By: /s/ Frederick N. Egler

Frederick N. Egler

Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222
(412) 288-3396
fegler@reedsmith.com

Attorneys for PNC Defendants

ALSTON & BIRD LLP

By: /s/ Kara F. Kennedy

Teresa T. Bonder
Valarie C. Williams
Kara F. Kennedy

One Atlantic Center
1201 West Peachtree Street, NW
Atlanta, GA 30309
(404) 881-7000
teresa.bonder@alston.com
valarie.williams@alston.com
kara.kennedy@alston.com

Attorneys for SunTrust Defendants

PULLMAN & COMLEY, LLC

By: /s/ Jonathan B. Orleans

Jonathan B. Orleans
Adam S. Mocchiolo

850 Main Street
Bridgeport, CT 06601
Pittsburgh, PA 15222
(203) 330-2000
jborleans@pullcom.com
amocchiolo@pullcom.com

Attorneys for Texas Independent Bancshares

PATTERSON BELKNAP WEBB &
TYLER LLP

By: /s/ Robert P. LoBue

Robert P. LoBue
William F. Cavanaugh

1133 Avenue of the Americas
New York, NY 10036
(212) 336-2000
rplobue@pbwt.com

Attorneys for Wells Fargo Defendants

CONSTANTINE CANNON LLP

By: /s/ A. Owen Glist

Jeffrey I. Shinder
A. Owen Glist
Taline Sahakian
David A. Scupp

335 Madison Avenue, 9th Floor
New York, NY 10017
(212) 350-2700
jshinder@constantinecannon.com

Attorneys for 7-Eleven Plaintiffs

VORYS, SATER, SEYMOUR & PEASE LLP

By: /s/ Alycia N. Broz
James A. Wilson
Kimberly Weber Herlihy
Alycia N. Broz

52 East Gay Street
Columbus, Ohio 43216-1008
(614) 464-6400
jawilson@vorys.com

Attorneys for Target Plaintiffs

QUINN EMANUEL URQUHART &
SULLIVAN LLP

By: /s/ Steig D. Olson
Stephen R. Neuwirth
Steig D. Olson

51 Madison Avenue
22nd Floor
New York, NY 10010
(212) 849-7100
steigolson@quinnemanuel.com

Alicia Cobb
600 University Street, Suite 2800
Seattle, Washington 98101
(206) 905-7000

Attorneys for The Home Depot Plaintiffs

BERGER & MONTAGUE, P.C.

By: /s/ Michael J. Kane
H. Laddie Montague

Merrill G. Davidoff
Michael J. Kane

1622 Locust Street
Philadelphia, PA
(215) 875-3010
hlmontague@bm.net

ROBINS KAPLAN LLP

K. Craig Wildfang
Thomas J. Undlin
Ryan W. Marth
800 LaSalle Plaza, Suite 2800
Minneapolis, MN 55402
(612) 349-8500
kcwildfang@robinskaplan.com

ROBBINS GELLER RUDMAN & DOWD LLP

Patrick J. Coughlin
Alexandra Senya Bernay
655 West Broad Way, Suite 1900
San Diego, CA 92101
(619) 231-1058
patc@rgrdlaw.com

Attorneys for (b)(3) Plaintiffs

GRANT & EISENHOFER

By: /s/ Deborah A. Elman
Robert G. Eisler
Deborah A. Elman
485 Lexington Avenue, 29th Floor
New York, NY 10017
(646) 772-8500
reisler@gelaw.com

HILLIARD & SHADOWEN LLP

Steve D. Shadowen
D. Sean Nation
2407 S. Congress Ste E 122
Austin, TX 78704
(855) 344-3298
steve@hilliardshadowenlaw.com

FREED KANNER LONDON & MILLEN LLC

Michael J. Freed
Robert J. Wozniak
2201 Waukegan Road, Suite 130
Bannockburn, IL 60015
(224) 632-4500
mfreed@fklmlaw.com

NUSSBAUM LAW GROUP, P.C.

Linda P. Nussbaum
Bart D. Cohen
1211 Avenue of the Americas, 40th Floor
New York, NY 10036
(917) 438-9102
lnussbaum@nussbaumpc.com

Attorneys for (b)(2) Plaintiffs

SO ORDERED:

Dated:

Brooklyn, New York

United States District Judge